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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, July 28, 2000

PETITION OF

CASE NO. PUA000033

VIRGINIA ELECTRIC AND POWER COMPANY

For an exemption of wholesale sales of power at market-based rates to affiliated marketers from the requirements of § 56-77 A of the Code of Virginia or, in the alternative, for prior approval of such sales under Chapter 4, Title 56 of the Code of Virginia, and for expedited consideration

ORDER GRANTING APPROVAL

On May 2, 2000, Virginia Electric and Power Company (“Virginia Power,” “Company,” “Petitioner”) filed a petition with the Commission requesting an exemption pursuant to § 56-77 B of the Code of Virginia (“Code”) from the requirements of § 56-77 A of the Code or, in the alternative, for prior approval of Virginia Power’s wholesale power sales at market-based rates to affiliated marketers under Chapter 4, Title 56 of the Code. As indicated in the petition, under Company’s currently effective market-based wholesale tariff approved by the Federal Energy Regulatory Commission (“FERC”) (“Market-Based Sales Tariff”), Virginia Power is authorized to sell power at wholesale to non-affiliated entities outside its service territory.

On February 29, 2000, Virginia Power filed with FERC in Docket No. ER00-1737 an application to modify its Market-Based Sales Tariff to allow it to sell wholesale power at market-based rates (1) to affiliated marketers for resale outside Virginia Power’s service area and (2) to

affiliated and non-affiliated power suppliers for resale to retail customers inside Virginia Power's service area for the limited purpose of participating in Virginia Power's retail pilot program ("Retail Pilot"). Beginning June 1, 2000, and upon FERC's acceptance of Virginia Power's proposed modifications to its Market-Based Sales Tariff and Open Access Transmission Tariff ("OATT"), Company proposes to make wholesale sales at market-based rates to affiliated and non-affiliated marketers outside its service area. The Company also proposes to make wholesale sales at market-based rates to affiliated and non-affiliated power suppliers for resale to retail customers inside Virginia Power's service area for the limited purpose of such power suppliers' participation as competitive service providers ("CSPs") in Virginia Power's Retail Pilot (the "Proposed Sales").

The Proposed Sales will be made in response to prevailing conditions in competitive markets and will be pursuant to Virginia Power's Market-Based Sales Tariff. The Market-Based Sales Tariff contains provisions addressing availability, character of service, rates, terms and conditions of service, billing, financial assurances, default and early termination, and force majeure, among others. Within thirty (30) days after service begins, Virginia Power and the customer are required to execute a Service Agreement to engage in transactions under the tariff.

The Market-Based Sales Tariff also contains form Service Agreements for short-term transactions of one year or less and long-term transactions of more than one year. For short-term transactions, the Service Agreement provides for the parties to engage in multiple transactions with the rates and any additional terms and conditions established at the time the transactions are arranged. The Service Agreement provides further that either party may terminate the Service Agreement upon providing thirty (30) days' notice and completion of any individual transaction previously agreed. Under this "umbrella agreement" format, each individual short-term

transaction covered by the Service Agreement is typically arranged by telephone or e-mail, followed by a confirmation sheet. Within thirty days after the end of each quarter, Virginia Power is required to file a report with FERC of all short-term energy or capacity sales, including unbundled pricing, made in the prior quarter.

For long-term transactions, Virginia Power is required to file a specific Service Agreement that will set forth the rates and any additional terms and conditions for each such transaction. As stated in the application, Virginia Power anticipates that it will use for long-term transactions an umbrella/confirmation sheet mode similar to that used for short-term transactions. The Market-Based Sales Tariff provides that Virginia Power is under no obligation to provide service unless the Company and the customer mutually agree to the rates and terms and conditions.

As stated in the petition, FERC's policy applicable to wholesale sales of power by public utilities to affiliates at market-based rates is as follows: (1) when Virginia Power offers to sell power to an affiliate, it will make the same offer at the same time to any other marketer by posting the offer on its electronic bulletin board; (2) any sale to an affiliate will be made at a rate no lower than the rate Virginia Power charges for sales to other marketers; (3) when Virginia Power makes a sale to an affiliate, it will simultaneously post the price charged to the affiliate on its electronic bulletin board; and (4) Virginia Power will report all sales to its affiliates under its Market-Based Sales Tariff in its quarterly market-based reports to FERC.

On May 31, 2000, FERC issued an Order Accepting for Filing Revisions to Open-Access Tariff as Modified, Accepting for Filing Market-Based Rates as Modified, and Directing Compliance Filing accepting Virginia Power's amendment to its market-based power sales tariff

for filing as modified to become effective as of June 1, 2000, subject to Virginia Power making the compliance filing as ordered by FERC.

THE COMMISSION, upon consideration of the petition and representations of Petitioner and having been advised by its Staff, is of the opinion and finds that Virginia Power should not be granted an exemption from the requirements of § 56-77 A of the Code for wholesale sales of power at market-based rates to affiliated marketers. Review of such arrangements are necessary to assure protection of the public interest and to assure that non-affiliates are not disadvantaged in favor of Virginia Power's affiliated marketers as to prices and opportunity to make purchases from Company. However, the Commission finds that the above-described arrangement for wholesale sales of power at market-based rates to affiliated marketers as described herein and as approved by FERC is in the public interest and should be approved. Accordingly,

IT IS ORDERED THAT:

1) Virginia Electric and Power Company's request for an exemption from the requirements of § 56-77 A of the Code for its proposed wholesale sales of power at market-based rates to affiliated marketers is hereby denied.

2) Pursuant to § 56-77 of the Code, Virginia Electric and Power Company hereby is granted approval to make wholesale sales of power to affiliated marketers at market-based rates, as described herein and as approved by the Federal Energy Regulatory Commission in its May 31, 2000, Order.

3) Should there be any changes in the terms and conditions of the arrangement for the provision of wholesale sales of power to affiliated marketers from those described herein and as approved by the Federal Energy Regulatory Commission in its May 31, 2000, Order, Commission approval shall be required for such changes.

- 4) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 5) The approval granted herein shall not have any ratemaking implications.
- 6) The Commission reserves the right to examine the books and records of any affiliates of Virginia Electric and Power Company in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 7) Virginia Electric and Power Company shall include the wholesale sales of power to affiliated marketers as approved herein in its Annual Report of Affiliate Transactions submitted to the Director of Public Utility Accounting of the Commission.
- 8) There appearing nothing further to be done in this matter, it hereby is dismissed.